



Dated: July 11, 2013, 12:24 PM

The following is ORDERED:

Niles Jackson
United States Bankruptcy Judge

**In the United States Bankruptcy Court
For the Western District of Oklahoma**

In re: Yolanda Alvarado Zarate,)
) Case No. 13-11136
) Chapter 13
Debtor.)
) Judge Niles Jackson

ORDER AVOID JUDICIAL LIEN OF CAPITAL ONE BANK (USA), N.A.

Upon considering the Motion to Avoid Judicial Lien of Capital One Bank (USA), N.A. filed in the above-captioned bankruptcy proceeding, the following findings are based upon representation of counsel:

Debtor, Yolanda Zarate, through her attorney, Joshua T. Copeland, respectfully moves the Court to Avoid the Judicial Lien of Capital One Bank (USA), N.A., to the extent it burdens her interest in the property described below. In support of her motion, Debtor would show the Court as follows:

1. Capital One Bank (USA), N.A. obtained judgment on January 22, 2010, in case number CS-2008-3737 of the District Court of Oklahoma Count, State of Oklahoma, against Rene R. Zarate, who is the same person as the Debtor's Non-Filing Spouse.
2. Capital One Bank (USA), N.A. recorded a Statement of Judgment with the Oklahoma County Clerk on February 10, 2010, thereby creating a judicial lien in Capital One Bank (USA), N.A.'s favor on the real property described in paragraph 3.
3. This judicial lien clouds title to residential property owned by the Debtor, Yolanda Zarate, and her non-filing spouse, Rene Zarate, with the following description:

Location: 2600 SW 35th St.
Oklahoma City, OK 73119-1844

Legal Description: All of Lots One (1) and Two (2) in Block Eighty-Seven (87) in INDUSTRIAL ADDITION to Oklahoma City, Oklahoma County, Oklahoma, according to the recorded plat thereof.

Debtor's Interest: Fee Simple – Held in Joint Tenancy with Right of Survivorship with Non-Filing Spouse

4. The Debtor, Yolanda Zarate, filed for relief under Chapter 13 of the Bankruptcy Code on March 19, 2013, and the Debtor included reference to the above described real property on Schedule A as real property owned in joint tenancy.
5. The Debtor further asserted the homestead exemption provided by Okla. Stat. tit. 31, § 1(A)(1) to the above described real property on her Amended Schedule C.
6. The existence of this judicial lien impairs an exemption to which Debtor would otherwise be entitled under 11 U.S.C. § 522(b).
7. Pursuant to 11 U.S.C. § 522(F), the Debtor filed her Motion to Avoid Judicial Lien of Capital One Bank (USA), N.A. on March 31, 2013, and that as evidenced by the Certificate of Service filed on the same date service was made upon interested parties pursuant to Local Rule 9007-1.
8. No objection or other responsive pleading has been filed within the time limits set by Local Rule 9013-1(D).

IT IS HEREBY ORDERED that the judicial lien in favor of Capital One Bank (USA), N.A., obtained by the filing of the Statement of Judgment in Oklahoma County District Court Case No. CS-2008-3737, recorded in Book: 11300 Page: 1007 with the Oklahoma County Clerk, is hereby avoided. It is further ordered that pursuant to 11 U.S.C. 349(b), dismissal of this case will result in reinstatement of the judgment lien of Capital One Bank (USA), N.A.

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APPROVED BY:

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